

Message Text

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ORIGIN ARA-10

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TO AMEMBASSY QUITO IMMEDIATE

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L STATE 229301

E.O. 11652: GDS

TAGS: ENRG, PFOR

SUBJECT: GOVERNMENT OF ECUADOR - GULF OIL CORP DISPUTE.

REF: QUITO 6570

1. THE GIST OF REFTEL WAS EXPLAINED TO GULF OIL CORPORATION OFFICIALS, INCLUDING PRESIDENT JAMES LEE, WHO MET SEPTEMBER 14 WITH ASSISTANT SECRETARY SHLAUDEMAN AND REPRESENTATIVES FROM ARA, EB, L, AND TREASURY. THE GULF OFFICIALS AGREED THAT IF EITHER PARTY WAS TO TAKE THE INITIATIVE TO BREAK THE IMPASSE, IT WOULD HAVE TO BE GULF. THEREFORE, THEY SAID THAT THEY WOULD TRY TO COME UP WITH A WRITTEN PROPOSAL TO BE TRANSMITTED TO THE GOE, WHICH HOPEFULLY, WOULD INDUCE THE GOE TO SUSPEND THE SEPTEMBER 30 DEADLINE AND TO NEGOTIATE A SOLUTION THAT WOULD RESOLVE GULF'S PROBLEMS. THEY
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ADDED THAT THEY WOULD GIVE THE DEPARTMENT A COPY OF THE PRO-

POSAL ONCE IT WAS READY.

2. THE DEPARTMENT RAISED THE POSSIBILITY OF AN OFFSET OF GULF AND GOE DEBTS, IN THE CONTEXT OF A PROPOSAL FOR AN INTERIM ARRANGEMENT BASED ON AN EXTENDED PERIOD FOR NEGOTIATIONS AND GULF'S CONTINUING TO PAY CASH FOR NEW LIFTINGS. LEE SAID THAT GULF WAS CONSIDERING SUCH A POSSIBILITY, AS WELL AS OTHERS, AS PART OF SOME PACKAGE DEAL, ALTHOUGH GULF

WOULD NOT GIVE UP WITHHELD DEPOSITS SIMPLY FOR THE PRIVILEGE OF BEGINNING NEGOTIATIONS. HE NOTED THAT ACCORDING TO THEIR CALCULATIONS, AN OFFSET ARRANGEMENT BRINGING BOTH GULF AND THE GOE TO A "CURRENT" BASIS WOULD INVOLVE LITTLE IF ANY NET PAYMENT TO THE GOE IF PAYMENTS FOR CURRENT LIFTINGS WERE CONSIDERED AN ADVANCE ON PAYMENTS OTHERWISE NOT DUE FOR 120 DAYS.

3. THE DEPARTMENT RAISED THE POSSIBILITY OF THE ESTABLISHMENT OF AN ESCROW ACCOUNT THAT NEITHER PARTY WOULD HAVE COMPLETE CONTROL OVER, SUPPLEMENTED, PERHAPS, BY A PROCESS OF THIRD-PARTY MEDIATION OR ARBITRATION. LEE SAID GULF WOULD BE WILLING TO CONSIDER SUCH A POSSIBILITY, BUT SHLAUDEMAN SAID HE BELIEVED THE GOE WOULD NOT ACCEPT IT UNLESS IT WAS SATISFACTORILY LINKED TO OTHER ITEMS.

4. THE POSSIBILITY OF AN EXTENSION OF THE SEPTEMBER 30 DEADLINE WAS RAISED BY THE DEPARTMENT, AND WAS STRESSED BY GULF. THE GULF OFFICIALS WERE UNABLE TO PREDICT WHAT WOULD HAPPEN, AND SAID IT WAS INITIALLY UP TO MINISTER OF NATURAL RESOURCES VARGAS, WHO DID NOT NECESSARILY HAVE TO DECLARE FORFEITURE ON SEPTEMBER 30, BUT PROBABLY WOULD EXERCISE THE OPTION OF DOING SO. THE DEPARTMENT AGREED WITH THAT ASSESSMENT.

5. GULF ASKED THE USG TO TRY TO INFLUENCE THE GOE,

A. TO POSTPONE ANY DECLARATION OF FORFEITURE, AND

B. TO UNDERTAKE TO NEGOTIATE WITH GULF.

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6. SHLAUDEMAN MADE CLEAR THAT THE USG WAS PREPARED TO ASSIST GULF IN TRYING TO AVOID FORFEITURE AND TO WORK OUT A SETTLEMENT OF A DISPUTE THAT COULD AFFECT USG-GOE RELATIONS. HE SAID THAT HE HAD ALREADY SPOKEN TO THE ECUADOREAN AMBASSADOR CAUTIONING THE GOE AGAINST FORFEITURE, THAT AMBASSADOR BLOOMFIELD HAD BEEN INSTRUCTED TO APPROACH THE GOE ALONG THOSE LINES, THAT THE EMBASSY'S ASSESSMENT WAS THAT THE GOE MEANT BUSINESS, AND THAT WAS WHY A PRO-

POSAL FROM GULF WAS REQUIRED NOW. SUCH A PROPOSAL SHOULD ADDRESS THE ISSUE OF DEPOSITS, SHOULD BE IN WRITING, AND SHOULD PROVIDE THE GOE WITH FACE-SAVING POLITICAL COVER FOR GETTING PAST THE SEPTEMBER 30 DEADLINE. THIS IN TURN WOULD IMPROVE THE CHANCES OF THE USG BEING ABLE TO ASSIST IN MOVING THE GOE TO THE BARGAINING TABLE.

7. LEE ASKED IF GULF COULD COUNT ON USG SUPPORT IF THE GOE DOES DECLARE FORFEITURE. DEPUTY LEGAL ADVISER SCHWEBEL

REPLIED THAT THE DEPARTMENT DID NOT YET HAVE A DEFINITIVE POSITION, BUT THAT A PROVISIONAL ANSWER WAS THAT GULF SEEMED TO BE ABLE TO MAKE A GOOD CASE THAT THE GOE WAS IN PRIOR MATERIAL BREACH OF THE CONTRACTUAL REGIME, AND, ACCORDINGLY, COULD NOT JUSTIFIABLY DECLARE FORFEIT GULF'S INTERESTS BECAUSE OF GULF'S WITHHOLDING OF DEPOSITS. HE ADDED THAT USG SUPPORT MIGHT BE OF NO AVAIL, HOWEVER, AND SHLAUDEMAN ASKED GULF TO KEEP THAT IN MIND. LEE REPLIED THAT GULF HOPED IT WOULD NOT COME TO EXPROPRIATION, THAT GULF WANTED TO NEGOTIATE A LASTING SOLUTION, AND THAT GULF WOULD KEEP IN TOUCH WITH THE DEPARTMENT.

8. AS THE MEETING ADJOURNED, GULF'S COUNSEL, GLEN LUCAS, GAVE SCHWEBEL A LARGE COMPILATION OF RELEVANT DOCUMENTATION, AND PROMISED THAT OPINIONS OF SPECIAL COUNSEL ON RELEVANT ASPECTS OF INTERNATIONAL LAW, ECUADOREAN LAW, AND US LAW WOULD SOON BE AVAILABLE. SCHWEBEL NOTED THAT ANY EVENTUAL USG ESPOUSAL OF A CLAIM WOULD REQUIRE PRIOR EXHAUSTION OF ANY LOCAL REMEDIES. LUCAS RESPONDED THAT GULF WAS ACTIVELY CONSIDERING WHAT REMEDIES IT COULD PURSUE.

9. COMMENT: GULF'S OFFICIALS WERE MUCH MORE REASONABLE
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THAN THEY WERE WHEN LAST HERE (JUNE 28), BUT T.D. LUMPKIN, GULF'S HARDLINER, WAS ABSENT FROM THIS MEETING BECAUSE OF AN INJURY. HIS VIEWS STILL SEEM TO PREVAIL AT GULF, ALTHOUGH LEE GAVE EVERY APPEARANCE OF BEING MORE AMENABLE TO COMPROMISE THAN LUMPKIN. A TEST WILL BE THE WRITTEN PROPOSAL THAT GULF HOPES TO DEVISE AND OFFER THE GOE. HABIB

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